



4331-84

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[LLWO210000.L1610000]

National Environmental Policy Act Implementing Procedures for the Bureau of Land Management (516 DM 11)

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: This notice announces the Department of the Interior's (Department) proposal to revise the National Environmental Policy Act (NEPA) implementing procedures for the Bureau of Land Management (BLM) at Chapter 11 of Part 516 of the Departmental Manual (DM) with a proposed new categorical exclusion (CX).

DATES: Comments must be postmarked (for mailed comments), delivered (for personal or messenger delivery comments), or filed (for electronic comments) no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION OF THIS NOTICE IN THE *FEDERAL REGISTER*].

ADDRESSES: The public can review the proposed changes to the DM and the new proposed CX Verification Report online at: <https://tinyurl.com/w8t4jx2>. Comments can be submitted using:

- *BLM National NEPA Register:* <https://tinyurl.com/w8t4jx2>. Follow the instruction at this website.

- *Mail:* U.S. Department of the Interior, Bureau of Land Management, Attention: WO-210-PJCX, 20 M Street SE, Room 2134LM, Washington, DC 20003.

- *Personal or messenger delivery:* U.S. Department of the Interior, Bureau of Land Management, Attention: W0-210-PJCX, 20 M Street SE, Room 2134LM, Washington, DC 20003.

FOR FURTHER INFORMATION CONTACT: Heather Bernier, Acting Division Chief, Decision Support, Planning, and NEPA, at (202) 912-7282, or hbernier@blm.gov.

Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

Background

The National Environmental Policy Act (NEPA) requires Federal agencies to consider the potential environmental consequences of their decisions before deciding whether and how to proceed. The Council on Environmental Quality (CEQ) encourages Federal agencies to use categorical exclusions (CXs) to protect the environment more efficiently by reducing the resources spent analyzing proposals which generally do not have potentially significant environmental impacts, thereby allowing those resources to be focused on proposals that may have significant environmental impacts. The appropriate use of CXs allow NEPA compliance, in the absence of extraordinary circumstances that merit further consideration, to be concluded without preparing either an environmental assessment (EA) or an environmental impact statement (EIS) (40 CFR 1500.4(p) and 40 CFR 1508.4).

The Department's revised NEPA procedures were published in the *Federal Register* on October 15, 2008 (73 FR 61292), and are codified at 43 CFR Part 46. Additional Department-wide NEPA policy may be found in the DM, in chapters 1 through 4 of part 516. The procedures for the Department's bureaus are published as chapters 7 through 15 of this DM part 516. Chapter 11 of 516 DM covers the BLM's procedures. The BLM's current procedures can be found at: <https://elips.doi.gov/ELIPS/DocView.aspx?id=1721>. These procedures address policy as well as procedure in order to assure compliance with the spirit and intent of NEPA.

Rationale

The BLM has been managing sagebrush ecosystems for greater sage-grouse, mule deer, and other species for over a decade, implementing pinyon pine and juniper tree removal treatments to restore habitat mosaics within the landscape and address the various habitat needs of mule deer and sage-grouse. Pinyon pine and juniper tree encroachment poses a serious threat to the health of millions of acres under BLM management. Following years of experience removing these trees without significant effects, the BLM has identified that establishing a CX for the actions is necessary for expediting maintenance of sagebrush habitats essential to mule deer and sage-grouse. The BLM has completed review of scientific literature and previously analyzed and implemented actions in the *Report on the results of a Bureau of Land Management analysis of NEPA records and field verification in support of establishment of a categorical exclusion for pinyon pine and juniper management projects* (Pinyon-Juniper CX Verification Report), which is incorporated by reference here, and is summarized in **Justification for Change** below, and has found that the establishment of a CX is

appropriate because of the evidence of no significant effects from the removal of these trees. Establishing the new proposed CX would streamline the process for pinyon pine and juniper tree removal projects that normally do not require analysis in order to determine significance through an EA or EIS.

Description of Change

The Department proposes to add one CX to the BLM chapter of the Departmental Manual 516 DM 11 at a proposed new Section, J. Habitat Restoration. The language of the proposed new CX citation at 516 DM 11.9 J. (1) Habitat Restoration is:

- (1) Covered actions on up to 10,000 acres within sagebrush and sagebrush-steppe plant communities to manage pinyon pine and juniper trees for the benefit of mule deer or sage-grouse habitats. Covered actions include: manual or mechanical cutting (including lop-and-scatter); mastication and mulching; yarding and piling of cut trees; pile burning; seeding or manual planting of seedlings of native species; and removal of cut trees for commercial products, such as sawlogs, specialty products, or fuelwood, or non-commercial uses. Such activities:
 - (a) Shall not include: cutting of old-growth trees; seeding or planting of non-native species; chaining; pesticide or herbicide application; broadcast burning; jackpot burning; construction of new temporary or permanent roads; or construction of other new permanent infrastructure.
 - (b) Shall disclose the land use plan decisions providing for protections of the following resources and resource uses in the documentation of the categorical exclusion:
 - (1) Specifications for management of mule deer habitat;
 - (2) Specifications for management of sage-grouse habitat;

- (3) Specifications for erosion control measures;
- (4) Criteria for minimizing or remedying soil compaction;
- (5) Types and extents of logging system constraints (e.g., seasonal, location, extent);
- (6) Extent and purpose of seasonal operating constraints or restrictions;
- (7) Criteria to limit spread of weeds;
- (8) Size of riparian buffers or riparian zone operating restrictions; and
- (9) Operating constraints and restrictions for pile burning.

The intent of this CX is to improve the efficiency of routine environmental review processes in for the management of pinyon pine and juniper trees for the benefit of mule deer and sage-grouse habitat. Each proposed action must be reviewed for extraordinary circumstances that would preclude the use of this CX. The Department list of extraordinary circumstances under which a normally excluded action would require further analysis and documentation in an EA or EIS is found at 43 CFR 46.215. If a proposed pinyon pine and juniper tree management project is within the activity described in this CX, then these “extraordinary circumstances” will be considered in the context of the proposed project to determine if they indicate the potential for effects that merit additional consideration in an EA or EIS. If any of the extraordinary circumstances indicate such potential, the CX would not be used, and an EA or EIS would be prepared.

The public is asked to review and comment on the newly proposed CX. To be considered, any comments on this proposed addition to the list of CXs in the DM must be received by the date listed in the **DATES** section of this notice at the location listed in the **ADDRESSES** section. Comments received after that date will be considered only to the extent practicable. Comments, including names and addresses of respondents, will be part

of the public record and available for public review at the BLM address shown in the **ADDRESSES** section, during business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, telephone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Justification for Change

Proposed CX number J (1) covers management and control of juniper and pinyon pine on treatment areas of up to 10,000 acres to benefit mule deer and sage-grouse habitat. This CX would allow the BLM to more quickly implement sagebrush-steppe restoration projects that would reduce pinyon pine and juniper density and cover in areas of their expansion, while improving and increasing native plant communities. The BLM proposes CX J (1) after reviewing existing NEPA analysis and available scientific research on the effects of these types of routine actions over time and over different geographic areas. The BLM has documented in detail the justification for establishing this new CX in the Verification Report, which is incorporated by reference here and available to review in full at the websites shown in **ADDRESSES**.

Pinyon and juniper woodlands were estimated to occupy less than 3 million hectares (7 million acres) prior to Euro-American settlement (1870s), but now occupy over 30 million hectares (74 million acres), a 10-fold increase attributed to many factors including fire suppression, grazing, land clearing, and climate change (Miller and Tausch

2001). Pinyon-juniper species can be aggressive invaders into more productive shrub-steppe communities that historically occupied deeper soils than the pinyon pine and juniper tree woodlands. As of 2016, sagebrush ecosystems in the U.S. occupied only about one-half of their historical distribution (Pyke et al. 2017).

The BLM's review of the available literature demonstrates that the activities proposed for this new CX would not cause significant environmental effects, whether the activities were to be implemented individually or in combination. As discussed in detail in the Verification Report Methods section, the research overwhelmingly shows that pinyon pine and juniper tree removal restores ecosystem values associated with the rebound of native shrubs (including sagebrush), perennial grasses, and forbs, even when there may be a component of non-native forbs and annual grasses. Despite the expectation that annual grasses (e.g., exotics like cheatgrass) often increase after pinyon pine and juniper tree treatment, the current literature shows that the native plant communities reestablish after mechanical pinyon pine and juniper tree removal treatments, becoming dominant (over nonnative species) either immediately after treatment or within a few years. The Jones (2019) literature review reported no studies showing that pinyon-juniper removal had negative effects on sage-grouse habitat, and 60 percent of the relevant studies found that pinyon pine and juniper tree removal in sagebrush communities increased sage-grouse use of the treated areas. A review of pinyon pine and juniper tree treatment effects on deer and elk habitat by Bombaci and Pejchar (2016), cited by Jones (2019), found that mechanical treatments have variable effects on deer and elk use of sage-steppe ecosystems, both seasonally and annually, ranging from decreased use to increased use.

As discussed in the Methods section of the Verification Report, the BLM has analyzed the effects of many pinyon pine and juniper tree removal projects in EAs, and has monitored post-implementation results. All associated NEPA documents were reviewed to determine the scope of environmental consequences anticipated to result from the proposed actions. There were no instances where any of the evaluated projects would have resulted in a need to complete an EIS had these measures not been applied as a feature of the proposed action or alternatives. Often, through application of design features, environmental effects are minimized to the degree that resource issues were eliminated from further analysis due to application of these project elements. While long-term benefits of reducing fuel loading and improving sagebrush-steppe habitats are primarily beneficial, neutral, or result in no effect findings, there are documented instances of adverse, residual environmental consequences associated with implementation of these treatments. These environmental consequences are not considered individually or cumulatively significant based on the conclusions from the EA analyses, which are summarized by resources in the Methods section of the Verification Report for soils, invasive plants, wildlife, pinyon pine and juniper tree obligate species, visuals, big game species, wilderness characteristics, cultural artifacts, tribal resources, air quality, and biomass (pp. 16-20). The BLM's post-implementation observations align with the literature review summarized in the Methods of the Verification Report.

The BLM specifically notes that with the current level of understanding, the advance of invasive species, whether pre-existing or new, may be an outcome of pinyon pine and juniper tree management. However, as described in the Verification Report, native sagebrush and sage-steppe vegetative composition and forage production improve

despite the presence of invasive plant species. The BLM addresses actions for managing invasive plant species in their land use plans, and any implementation of this CX would be required to be in conformance with any protection measures required through the applicable plan. In addition, the BLM has not included activities with unknown or potentially high risks of introducing invasive plants in the proposed CX, namely broadcast burning, jackpot burning, and road construction.

The BLM's experience with implementing and monitoring these types of project mirrors the scientific literature; taken together, they support establishment of this proposed CX, providing the evidence that this type and scope of action can be categorically excluded from further detailed analysis. As described in detail in the Verification Report, establishment of this proposed new CX would not individually or cumulatively have significant impacts on the human environment, and its use, like that of other administratively established CXs, would be subject to extraordinary circumstances review.

Authorities: NEPA, the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*); E.O. 11514, March 5, 1970, as amended by E.O. 11991, May 24, 1977; and CEQ regulations (40 CFR 1507.3).

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Director, Office of Environmental Policy and Compliance

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